HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P. NO. 13284 of 1998

DATED: 14-03-2007

Between:-

K. Anjan Rao s/o Nagava Rao, aged 60 years, R/o Thimmampeta village, Mulakalapalli Mandal, Khammam District and 15 others.

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PETITIONERS

And

The Government of Andhra Pradesh, represented by its Secretary, Revenue Department, Secretariat Buildings, Hyderabad and two others.

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RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P. NO. 13284 of 1998

O R D E R

This writ petition is filed seeking a Writ of Mandamus declaring the action of respondents 2 and 3 in interfering with the peaceful possession and enjoyment of the lands of the petitioners in Sy. Nos. 119, 167, 167/1, 167/131, 167/133, 167/148, 209/1, 224, 225/2, 253, 253/35, 277, 283, 285, 285/1, 285/2, 288, 289/1, 289/2, 290, 292, 293, 293/1, 293/2 and 293/3 of Thimmampeta village, Mulakalapalli Mandal, Khammam District as illegal and arbitrary and consequently to direct the respondents not to dispossess them from the said lands.

It is the case of the petitioners that all of them were landless poor and their ancestors occupied the Government land at Thimmampeta village and are in peaceful possession and enjoyment of the lands in Survey Nos. 167/1, 267, 119 etc. since 1941. Initially, these lands were barren lands and not fit for cultivation and later the petitioners and their ancestors brought these lands into cultivable one by spending huge amounts and with hard labour. In the year 1960, they made applications to the then Tahasildar, Kothagudem to assign the lands which were in their possession claiming that they were the landless poor persons and eligible for the assignment of the said lands. After thorough enquiry, the Tahsildar found that they are all landless poor persons and eligible for assignment of the said lands

which are in their possession and issued pattas in their favour vide orders in R.C.No.1532/59/A3, dated 13.1.1960. In fact, petitioners 2 and 9 purchased the lands by paying 16 times of the land revenue and the then Tahsildar issued pattas in R.C.No. 51/8058/A4, dated 5.11.1958. In pursuance of the assignment made in favour of the petitioners, they have been in peaceful possession and enjoyment of the lands till date by paying the land revenue regularly and all the revenue records show that they are in possession of the same. The third respondent herein issued notices to some of the petitioners on 08-04-1992 under Section 7 of the A.P. Land Encroachment Act directing to show cause as to why they should not be evicted from their lands. Immediately, they approached the 3rd respondent and represented that these lands were assigned to them by the then Tahasildar, Kothagudem long back and they will not come under the purview of the provisions of the Land Encroachment Act. However, the third respondent even without passing any orders directed them orally to evict the lands and at that stage they made a representation to the first respondent who in turn issued notices to all the concerned authorities including the respondents to send a detailed report in the matter with connected record and stayed the eviction. Finally the matter come up for hearing and the first respondent passed orders in G.O.Ms.No.154, dated 16.3.1998 disposing of their appeal saying unless and until the pattas granted in favour of the petitioners are cancelled, the authorities have no right to evict the petitioners and it is appropriate to take action after giving due opportunity to the assignees, if they are found ineligible, and hence the proceedings taken by the third respondent under the Land Encroachment Act are quashed. After passing orders by the first respondent, the respondents 2 and 3 with a view to harass them and even without giving any notice or opportunity

to them are trying to dispossess them from the lands. Hence, the present writ petition is preferred by the petitioners.

Respondents-1 and 2 have filed a detailed counter affidavit wherein it is stated that the petitioners are all non-tribals and as such the Tahsildar is not at all the competent authority to assign any lands in their favour in agency area, and it is only the Revenue Divisional Officer who is competent to grant pattas.

Apart from the above, it is also stated by the learned Assistant Government Pleader that so far no action has been initiated.

In the light of the said allegations made in the counter affidavit, this Court is of the view that the approach of the petitioners by way of filing this writ petition, is only on a mere apprehension that they may be evicted and therefore, the same is nothing but a premature one.

However, in the facts and circumstances of the case, I feel just and proper to direct the respondents to follow due process of law in case of initiating the action of eviction, if any, against the petitioners.

The writ petition is, accordingly, disposed of with a direction to the respondents to follow due process of law in case of the action of eviction, if any being initiated against the petitioners.

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GOPALAKRISHNA

TAMADA, J
Dated: 14-03-2007
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